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UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL ADJUSTMENT ADMINISTRATION  
WASHINGTON, D. C.

(General Regulations, Series E)

REGULATIONS GOVERNING HEARINGS UNDER SUBSECTION (7) OF SECTION 8a OF THE AGRICULTURAL ADJUSTMENT ACT TO INVESTIGATE ALLEGED VIOLATIONS BY HANDLERS OF ORDERS OF THE SECRETARY OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, HENRY A. WALLACE, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following regulations with the force and effect of law, to be in force and effect from the date of the approval hereof until amended or superseded by regulations hereafter made by the Secretary of Agriculture with the approval of the President under said Act.



IN TESTIMONY WHEREOF I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the City of Washington this 16th day of October, 1935.

*H. A. Wallace*

*Secretary of Agriculture.*

Approved:

*Franklin D. Roosevelt*

*The President of the United States.*

THE WHITE HOUSE, October 24, 1935.

ARTICLE I—DEFINITIONS

SECTION 100.<sup>1</sup> As used in these regulations:

(a) The term "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

(b) The term "Secretary" means the Secretary of Agriculture of the United States.

(c) The term "Department" means the United States Department of Agriculture.

(d) The term "Hearing Clerk" means the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.

<sup>1</sup> The sections of these regulations are numbered according to the corresponding numbers of the articles. Thus, the first section of the first article is Section 100; the first section of the second article is Section 200, etc.

(e) The term "order" means any order, or any amendment thereto, which may be issued by the Secretary pursuant to Sections 8c or 10 (i) of the Act, or pursuant to Sections 56-60, inclusive, of an Act of Congress, approved August 24, 1935, relating to handlers of anti-hog-cholera serum and hog-cholera virus.

(f) The term "handler" means any processor, association of producers, or other individual, partnership, corporation, association or other business unit engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of Section 8c of the Act, or in the handling of anti-hog-cholera serum or hog-cholera virus, and subject to an order issued by the Secretary, and also any officer, director, agent, or employee of such handler.

## **ARTICLE II—HEARINGS TO DETERMINE WHETHER ALLEGED VIOLATIONS OF ORDERS SHOULD BE REFERRED BY THE SECRETARY TO THE ATTORNEY GENERAL**

**SECTION 200. Citation to Show Cause.**—Whenever the Secretary, or such officer or employee of the Department as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto, the Secretary, or such officer or employee as he may designate for the purpose, in the name of the Secretary, may, by citation in writing served personally upon such handler, or by depositing in the United States mails a citation in writing registered and addressed to such handler at the last known business address of such handler, order such handler to show cause in writing on or before a certain date to be named in the citation why the Secretary should not refer the matter to the Attorney General for appropriate action against such handler.

**SECTION 201. Contents of Citation to Show Cause.**—Such citation shall contain:

(a) A statement of the alleged violations of the provisions of the order.

(b) A statement of the time (which shall not be less than five days after service or mailing of such citation, as required by Section 200) within which the handler must comply with the citation to show cause by filing, at such place or places and with such person or persons as shall be designated in the citation, a written answer in triplicate to the charges contained in the citation.

**SECTION 202. Filing of Citation to Show Cause.**—A copy of the aforesaid citation shall be filed in the office of the Hearing Clerk, where it shall be available for public inspection.

**SECTION 203. Answer.**—(a) Within the time required by the citation, the handler shall file, at such place or places and with such person or persons as shall be designated in the citation, a written answer in triplicate to the charges contained in such citation.

(b) The answer shall be divided into paragraphs and shall contain admission or denials of the several charges and facts alleged in such citation, and all denials therein contained shall be amplified by full and frank statements of the facts relating to the alleged violations and the matters of defense relied upon.

(c) The answer shall contain a statement of the correct name and address of the handler upon whom the citation has been per-

sonally served or to whom it has been mailed. If the handler is incorporated, such fact shall be stated together with the name of the State of incorporation, the date of incorporation, and the names, addresses and respective positions of the officers and directors of the corporation. If such handler is a member of an unincorporated association, partnership, or other business unit, the answer shall disclose the correct names and addresses of all the members constituting such business unit.

(d) If the handler is not a natural person, the answer shall contain the name and address of an individual upon whom, as agent of such handler, notice of further proceedings may be personally served or to whom it may be mailed.

(e) The answer shall be supported by an affidavit as to the truth of the matters stated therein, made by the handler or a duly authorized agent of the handler who has knowledge of the facts.

(f) Upon proper cause shown, the Secretary, or such officer or employee of the Department as he may designate for the purpose, may extend the time within which such answer shall be filed, provided application for such extension is made within the time to show cause set forth in the citation.

**SECTION 204. Parties.**—The parties to every such proceeding shall be the Secretary, who may be represented at the hearing by the Presiding Officer or by counsel, and the handler, who may appear in person or by counsel.

**SECTION 205. Dismissal Without Hearing.**—If the Secretary finds the answer of such handler to be sufficient, he may order the proceeding dismissed, whereupon such handler shall be duly notified of the dismissal of the proceeding, and the order of dismissal shall be filed in the office of the Hearing Clerk.

**SECTION 206. Notice of Hearing.**—If the proceeding is not dismissed by the Secretary, the Secretary, or such officer or employee of the Department as he may designate for the purpose, may appoint a time (which shall not be earlier than five days after the date on which the answer is required to be filed) and designate a place for a hearing to be held, at the option of the Secretary, in the State where the handler transacts business affected by the order, or in the State where the agency created to administer the provisions of the particular order in question has its administrative offices, or in Washington, D. C.; or the hearing may be held at any other place which is mutually agreeable to the Secretary and the handler. The Secretary, or such officer or employee of the Department as he may designate for the purpose, shall give the handler written notice, which shall specify the time, place and purpose of such hearing, by serving such written notice personally upon such handler or his agent at least three days prior to the date appointed for such hearing, or by depositing such written notice at least five days prior to the day appointed for such hearing in the United States mails, registered and addressed to such handler or his agent at the last known business address of such handler, or agent.

**SECTION 207. Time and Place of Hearing.**—(a) Such hearing shall be held at the time and place set forth in the notice of hearing, or in any subsequent notice amending or superseding a prior notice, and may also, without notice other than announcement thereof at the hearing by the Presiding Officer, in the exercise of his discretion, be



continued from day to day or adjourned to a different place, or to a later date, or to a date and place to be fixed in a subsequent notice to be later issued in the manner provided in Section 206 of this Article.

(b) If, at the time of such hearing, any party to the proceeding is absent and no appearance is made on behalf of such party, the Presiding Officer shall, after the lapse of such period of time as he may consider proper and reasonable, have the name of such absent party called in the hearing room. If upon such call there is no response and no appearance on behalf of such absent party, the Presiding Officer may proceed with the hearing or may in his discretion continue the hearing as provided in subsection (a) of this Section.

**SECTION 208. Conduct of Hearing.**—Every such hearing shall be conducted by a Presiding Officer, who shall be the Secretary, or such officer or employee of the Department as the Secretary may designate for the purpose. Any such designation may be made or revoked by the Secretary at any time before or during such hearing. Such hearing shall be conducted in such manner, to be determined by the Presiding Officer, as will be most conducive to the proper dispatch of business and the attainment of justice. At any such hearing the Presiding Officer need not apply the technical rules of evidence.

**SECTION 209. Briefs.**—Written briefs, in triplicate, typewritten, mimeographed or printed, may be filed in the office of the Hearing Clerk (or, if the Presiding Officer so directs, with the Presiding Officer), within such time after the conclusion of the hearing, and upon such terms, as the Presiding Officer may designate.

**SECTION 210. Argument.**—At the conclusion of the taking of the evidence, and as a part of the hearing, opportunity shall be afforded by the Presiding Officer to all parties to the hearing to present oral arguments in favor of their respective contentions, based on the evidence. In his discretion, having regard to the nature and quantity of the evidence and to the importance of the issues, the Presiding Officer may limit the time to be consumed by such oral arguments and restrict the number of such arguments to one on behalf of each party to the hearing.

**SECTION 211. Execution of Procedural Documents.**—All citations, designations, notices and other documents requiring the signature of the Secretary under the provisions of these regulations, except any findings of fact and any order dismissing the proceedings or referring the matter to the Attorney General, as the case may be, may be signed in the name of the Secretary by such officer or employee of the Department as the Secretary may designate for the purpose, and any such designation may be made or revoked by the Secretary at any time before or during any proceeding.

**SECTION 212. Amendments.**—The Secretary, or the Presiding Officer, or such officer or employee of the Department as the Secretary may designate for the purpose, shall, upon due application therefor and within his discretion, grant, upon such reasonable terms as to him may seem right and proper, the right of amendment of the answer and of any other procedural document filed by the handler in such proceeding. The Secretary or the Presiding Officer, or such officer or employee of the Department as the Secretary may designate for the purpose, may, upon his own motion and upon such reasonable terms as to him may seem right and proper, make or allow

amendment to the citation to show cause and to any other procedural document filed by or on behalf of the Secretary in such proceeding.

**SECTION 213. Reopening Hearing.**—The Secretary, or such officer or employee of the Department as he may designate for the purpose, or the Presiding Officer, may in his discretion, on his own motion or upon due application therefor made prior to the rendering of a decision by the Secretary, reopen the hearing for the purpose of taking additional evidence.

**SECTION 214. The Record.**—Every such hearing shall be publicly conducted and the testimony given at the hearing shall be reported *verbatim*. The record of the proceeding shall consist of the citation to show cause, answer, notice of hearing, procedural documents, order of the Secretary alleged to be violated, pertinent General Regulations, transcript of testimony, and all documentary evidence offered and received at the hearing. As soon as practicable after the conclusion of the hearing, the Presiding Officer shall transmit the record of the proceeding to the office of the Hearing Clerk, where it shall be available for public inspection. The Presiding Officer shall attach to the original transcript of testimony his certificate stating that the transcript is a true, correct and complete transcript of the testimony given at the hearing, with exceptions in such particulars as he shall specify, and that the exhibits transmitted are all of the exhibits received in evidence at the hearing, with such exceptions as he shall specify. A copy of such certificate shall be attached to each copy of the transcript of testimony. In accordance with such certificate, the Presiding Officer shall note on the original transcript, and the Hearing Clerk shall note upon each copy of the transcript, each correction detailed in such certificate by adding or crossing out (but without obscuring the text as originally transcribed), at the appropriate places, any words necessary to make the text conform to the correct meaning.

**SECTION 215. Copies of Transcript.**—Any person desiring a copy of the transcript of testimony shall be entitled to the same upon application to the Solicitor of the Department and upon payment of the fees fixed by the regulations of the Department.

**SECTION 216. Decision.**—Any decision upon the record of the proceeding shall be rendered by the Secretary. If the Secretary finds that the handler has not violated any of the provisions of the order respecting which the citation to show cause has been issued, the Secretary may enter an order dismissing the proceeding. If the Secretary finds that the handler has violated any of the provisions of the order respecting which the citation to show cause was issued, and determines to refer the matter to the Attorney General, he shall enter an order setting forth specifically his findings of fact and referring the matter to the Attorney General for appropriate action against such handler. Any order issued by the Secretary relating to the disposition of such proceeding shall be filed in the office of the Hearing Clerk, where it shall be available for public inspection.

### ARTICLE III—CONSTRUCTION

**SECTION 300.** Nothing contained in these regulations shall be, or shall be construed to be, in derogation or modification of the rights

of the Secretary or of the United States (1) to exercise any jurisdiction or powers granted by the Act, or otherwise, and/or (2) to act in the premises in accordance with such jurisdiction and powers whenever such action is deemed advisable.

#### **ARTICLE IV—PUBLIC NOTICE OF FOREGOING REGULATIONS—HOW GIVEN**

**SECTION 400.** Public notice of the issuance of the foregoing regulations shall be given by: (a) posting a copy of such regulations on the official bulletin board of the Department at Washington, D. C.; (b) issuing a press release containing a description of such regulations and making available in the office of the Hearing Clerk copies of such regulations for the press; and (c) forwarding by mail copies of such regulations to the Governors of the several States of the United States and to the executive heads of the Territories of the United States.





